

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE
Meeting Minutes
July 11, 2005
Sacramento, California

MEMBERS

Russell Hall
Jim Russell
Gene Etheridge
Edith Clark
Jim Eldon
Doug Hayden
Joan Taramasso
Harry Brown-Hiegel
Greta Dunlap
Howell Tumlin
Mary Lou Weiss
Scott Hudson
Karol Jo Kappel

ALTERNATES MEMBERS

Fred Ellrott, Voting
Nancy Pleibel
Pompea Smith
Mary Hillebrecht

INTERESTED PARTIES

Randii MacNear

CDFA

Valerie Brown
Rick Jensen
Lynn Morgan
Janice Price
Susan Shelton

ITEM 1: ROLL CALL

Gene Etheridge called the Certified Farmers' Market Advisory Committee (CFMAC) meeting to order at 10:04 a.m. Harry Brown-Hiegel led the committee in the pledge of allegiance. Janice Price called the roll and a quorum was established.

A. INTRODUCTION OF GUESTS

Introductions were made.

ITEM 2: APPROVAL OF MAY 9, 2005 MEETING MINUTES

MOTION: Mary Lou Weiss moved to approve the minutes as submitted. Jim Eldon seconded. The motion passed with one abstention.

ITEM 3: APPROVAL OF AGENDA

The following changes in the agenda were requested:

- To move Item 4.c., a report by Valerie Brown and Lynn Morgan of CDFA, to the afternoon

- Ensure that Item 7.g., Scott Hudson's report, be presented before 1:00 p.m.
- Add "Schedule November's Meeting" to the agenda as item 8.a.

MOTION: Jim Eldon moved to approve the agenda as amended. Karol Jo Kappel seconded. The motion passed unanimously.

ITEM 4: CDFA REPORTS – JANICE PRICE

A. CFM REMITTANCE FEE AND 2004 DELINQUENT MARKET REPORTS

The CFM Remittance Fee Reports as of June 30, 2005 were handed out to the committee members. Janice Price reported that the total fees paid in 2004 were \$180,596.44. This represents the highest amount of fees collected in the history of the program.

Janice stated that she has talked to many markets regarding the \$100 late penalty fees since the regulation has gone into effect. Some markets have tried to challenge the penalty. However, the regulation is clear and gives CDFA no authority to issue an exemption or waive the penalty fee.

The Delinquent Reports for 2004 and the first quarter of 2005 were given to the committee members. No discussion ensued.

B. CDFA BUDGET REPORTS: APRIL AND MAY, FISCAL YEAR 2004/05

Janice Price gave each committee member a copy of the CFM Inspection Projection and Proposals Report and the CFM Program 40.11.04 Fund Condition Statement. As requested by the CFMAC, Janice created these reports to enable the members to better understand the current budget. Janice proposed to provide these reports on a bi-annual basis.

The CFM Inspection Projection and Proposals Report, amended July 8, 2005, lists charges for personnel services, operating expenses, overhead costs, projected revenue, credit for gas tax, and net program cost. It also compares fiscal years 2002/03 through 2004/05 (as of May 31, 2005).

Janice is working on two other reports for the committee's review. One is a quarterly revenue comparison report and the other is a report of current revenue vs. expenditures. These reports will be presented at the next committee meeting.

C. OTHER REPORTS

Janice announced that the Inspection and Compliance Branch has moved from the Suite 355, 3rd floor to Suite 220, 2nd Floor at the 560 J Street location. This move will substantially reduce the branch's cost for rent per year.

The regulation that defines sprouts, requires a market to have a valid certificate while in operation, and requires organic registrants to post their registration and certification became effective June 8, 2005. The committee discussed the need to incorporate this regulation into the penalty matrix.

Valerie Brown and Lynn Morgan of CDFA visited the committee to give an update on the task force being formed to examine potential opportunities for farmers to extend and expand direct marketing successes, and to explore innovative direct marketing ideas. Valerie explained that this small discussion group might expand into a larger group once ideas and issues come forward. A copy of the draft agenda and a list of task force members, which include CFMAC members, were passed out to the committee. The date has not yet been set for the meeting.

Valerie also announced that Steve Mauch, Director of the Inspection and Compliance Branch, has accepted another position. Effective July 31, 2005 he will become the executer of a new Joint Powers Authority for the Shipping Point Inspection Program. A new Director will be named in the next few weeks.

ITEM 5: AGRICULTURAL COMMISSIONER'S REPORT

Scott Hudson reported that the California Agricultural Commissioners and Sealers Association (CACASA) would be holding their interim meeting August 17-18, 2005 at CDFA. Jerry Prieto is currently the President of CACASA and Kurt Floren is the chair of the Standardization and Statistics Committee.

ITEM 6: CHAIRMAN'S REPORT – GENE ETHERIDGE

Gene Etheridge announced that the Small Farm Conference would be held in Ventura this year.

ITEM 7: COMMITTEE REPORTS/BUSINESS

A. LONG RANGE PLANNING SUBCOMMITTEE – GRETA DUNLAP, CHAIR

Greta Dunlap reported that Daniel Perales who is a Public Health Professor at San Jose State would be helping to analyze and compile the survey information. Louis Dyble has sent the surveys and raw data to Professor Perales. Greta will

schedule another meeting with the subcommittee to discuss the issue further. She will report again at the next CFMAC meeting.

B. FINANCE SUBCOMMITTEE – SCOTT BEYLIK, CHAIR

No report at this time.

C. MARKET STANDARDS/MANAGER CERTIFICATION SUBCOMMITTEE – HOWELL TUMLIN, CHAIR

Howell Tumlin reported that this Subcommittee met via teleconference on June 30, 2005.

1. *Proposed Regulation to Limit Non-Agricultural Products Sales*

This issue has been postponed until the next CFMAC meeting.

2. *Proposed Regulation to Require Due Process to Participants by CFMs – Janice Price*

At the CACASA Spring Conference Janice presented the proposed amendment to Section 1392.9 of the California Code of Regulations (CCR) regarding compliance requirements for the CFM operators. CACASA supported the amendment; however, they requested that language be inserted to clarify that commissioners are not responsible for enforcement. This issue will go back to the subcommittee for further discussion and clarification.

D. ENFORCEMENT/MATRIX SUBCOMMITTEE – SCOTT HUDSON, CHAIR

1. *Administrative Civil Penalty Matrix Revision Update – Janice Price*

Janice Price reported that she had requested that the CDFA Legal Office review possible changes to lines 3, 4, and 6 of the producers' section of the matrix. The question on line items 3 and 4 on the matrix was if a seller should be cited under Section 1392.4 (d) or 1392.1 (c) for certificate violations. The answer was neither. Currently, there is no CCR requirement that specifically states a seller shall possess a valid certificate when selling at a CFM. Janice Price suggested the CFMAC address this issue through proposing a regulation amendment.

In the Legal Office's response, they also expressed concerns regarding the matrix in general. They stated that the matrix falls under the Administrative Procedure Act and would be required to go through the regulatory process. Even though these are guidelines used in a general manner, the Legal Department considers them to be an underground regulation, as would Office of Administrative Law.

The committee discussed this issue extensively. Concerns were expressed that there could be a problem with penalties being overturned. Some said that this is a working document, not intended to circumvent the public comment period, so it should be fine to use. Scott Hudson stated that, in his opinion, the commissioners would rather have a guideline than no guideline. He added that if it must go through the regulation process, a simplified version must be created. He noted that Weights and Measures have a matrix-type document in regulation that might be used as a proto-type. Scott will discuss pursuing the regulation with CACASA.

E. NON-CERTIFIABLE AG. PRODUCTS SUBCOMMITTEE – JIM RUSSELL, CHAIR

Jim Russell reported that this Subcommittee met via teleconference on June 21, 2005 to continue their discussions regarding processed agricultural products. Minutes of that meeting were handed out to the committee.

1. *Revised Proposed Regulation to Define Processed Products*
2. *Proposed Regulation to Define Flavorings Used in Processed Products*
3. *Revised Proposed Regulation of Conditions of Direct Marketing for Processed Products*
4. *Proposed regulation to Require Non-Certifiable Agricultural Products Sales Quantities on Load Sheet*
5. *Proposed Regulation to Define Food Coloring in Processed Products*

The committee discussed some of these definitions and the need for livestock by-products and coatings to be addressed.

MOTION: Howell Tumlin moved to send the above definitions back to the subcommittee for further work. Doug Hayden seconded. The motion passed unanimously.

F. POLICY AND PROCEDURES SUBCOMMITTEE – HOWELL TUMLIN, CHAIR

Howell Tumlin reported that this Subcommittee met via teleconference on May 23, 2005 and June 20, 2005 to continue their discussions regarding CFMAC procedures. These additions/changes were presented as discussion items only but will be put as action items on the next CFMAC agenda.

1. *Proposal to Amend CFMAC Procedures, Section 2.8, Absences*

If any committee member has three unexcused absences, their removal from the committee shall be recommended to the Secretary.

2. *Proposal to Amend CFMAC Procedures, Section 1.6, Election of Officers*

Committee officers shall be elected from among the currently serving Committee members. Alternate members would not be eligible to serve as officers.

3. *Proposal to Amend CFMAC Procedures, Section 1.7, Sub-Committees*

Chairpersons of subcommittees may be members or alternates.

G. CACASA/CFMAC COORDINATION SUBCOMMITTEE – SCOTT HUDSON

Scott Hudson reported that this Subcommittee has met two times since the last CFMAC meeting to discuss CACASA's proposed changes to the CFM enforcement program. Scott gave the committee a handout outlining options for audit inspections and program funding.

In this concept annual growing ground inspections on all growers will no longer be done. These inspections will only be done for new producers or when existing producers add new locations to their certificates. The goal is to have every certified producer audited at least once every 2-3 years.

The cost of this type of program is estimated at approximately \$709,981 per year. This is assuming that costs of issuing farmers' market and producer certificates are funded by county fees and that participation fees fund the field enforcement program. To pay for this program, it is proposed that the \$.60 market fee no longer be charged, instead producers would pay a participation fee. These fees would run from \$1-3 based on the gross sales of the producer.

Discussion ensued regarding the logistics of this proposal and ideas for alternate options. Greta Dunlap stated that a marketing arm should be added to this proposed enforcement program.

The subcommittee will next meet on July 12, 2005 to work on the concept further. Scott will then present it to CACASA in August. This item will be discussed at the next committee meeting.

H. CDFA SECRETARY'S REQUEST FOR 10 YEAR VISION STATEMENT

Gail Hayden was scheduled to attend this meeting to give an update on this subject; however, she was unable to attend. Gail or Harry Brown-Hiegel will bring this issue to the committee at the next scheduled meeting.

ITEM 8: NEW BUSINESS – DISCUSSION ONLY

The California Small Farm Conference will be held November 13-15, 2005 in Ventura. The website for the conference is <http://www.californiafarmconference.com>. It was suggested that the CFMAC schedule a meeting during the conference so that industry has an opportunity to observe the committee.

MOTION: Edith Clark moved to hold a meeting during the Small Farm Conference if an invitation is received and if a time and place can be set. Joan Taramasso seconded. The motion passed unanimously.

ITEM 9: MEMBER ROUNDTABLE DISCUSSION – GENE ETHERIDGE

Fred Ellrott expressed his support for the work that Scott Hudson and the CACASA Coordination Subcommittee has done. He stated that it is an excellent first step.

Pompea Smith asked what the procedures were for CDFA adopting recommendations brought forward from the CFMAC. Janice explained that it depended on the nature of the changes. If the recommendation requires a legislative change it must be driven by industry, not CDFA. If it were a regulatory change it would be forwarded to CACASA. If supported by CACASA the proposal would be recommended to the Secretary for his approval.

Greta Dunlap asked that the issue of forming a marketing/education subcommittee be put on the next agenda.

Mary Lou Weiss thanked Janice for putting together budget reports that provide a better understanding of financial issues.

Harry Brown-Hiegel stated that he thinks that school and restaurant connections to CFMs will provide the foundation for direct marketing in the next few years.

**ITEM 10: NEXT MEETING – SEPTEMBER 12, 2005 – TORRANCE/AGENDA ITEMS
– GENE ETHERIDGE**

As the committee will be meeting in Ventura in November, it was discussed that the September meeting should be changed to Sacramento.

MOTION: Edith Clark moved to hold the September 12, 2005 meeting in Sacramento. Doug Hayden seconded. Abstain: Howell Tumlin. Affirmative vote: Rusty Hall, Edith Clark, Doug Hayden, and Joan Taramasso. Against: Jim Russell, Jim Eldon, Harry Brown-Hiegel, Greta Dunlap, Mary Lou Weiss, Karol Jo Kappel, and Fred Ellrott. The motion failed.

ITEM 11: ADJOURNMENT

As there was no other business to discuss, the Committee adjourned at 2:51 p.m.

Respectfully submitted by:

Janice Price, Supervisor
Certified Farmers' Market Program
Inspection and Compliance Branch